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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 ANTHONY J. BURRIOLA,

9 *Petitioner,*

10 vs.

11 STATE OF NEVADA,

12 *Respondent.*  
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3:10-cv-00261-LRH-VPC

ORDER

15 This matter comes before the Court for initial review. Anthony Burriola, a Nevada state inmate,  
16 has filed a notice of appeal seeking to appeal a decision of the Supreme Court of Nevada to this Court.

17 Petitioner's filing is subject to multiple defects.

18 First, petitioner did not either pay the filing fee or file an application to proceed *in forma*  
19 *pauperis*. Under 28 U.S.C. § 1914(a), the filing fee for "any civil action, suit or proceeding . . . whether  
20 by original process, removal or otherwise," except for an application for a writ of habeas corpus, is  
21 \$350.00. Petitioner did not file an application for a writ of habeas corpus; he filed a notice of appeal.  
22 The filing fee in this matter therefore is \$350.00. Moreover, the payment of the \$350.00 filing fee is  
23 subject to the requirements of the Prisoner Litigation Reform Act in 28 U.S.C. § 1915, including the  
24 requirement that petitioner pay the full \$350.00 fee in installments even if he currently is not able to pay  
25 the entire fee.

26 Second, this Court does not have jurisdiction over an action brought against the State of Nevada.  
27 The state sovereign immunity recognized by the Eleventh Amendment bars suit against the State in  
28 federal court, regardless of the relief sought.

1 Third, this Court does not have appellate jurisdiction over the Supreme Court of Nevada.  
2 *See, e.g., Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S.Ct. 149, 68 L.Ed. 362 (1923); *Bianchi v.*  
3 *Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003). In filing a notice of appeal from the order of the state  
4 supreme court, petitioner unquestionably is seeking to invoke appellate jurisdiction by the federal  
5 district court over the state supreme court. This Court does not have such jurisdiction over the Supreme  
6 Court of Nevada.

7 Given the multiple substantial defects presented, and the failure to present any specific claims  
8 in the papers submitted, the action will be dismissed without prejudice.

9 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice.

10 The Clerk of Court shall enter final judgment accordingly, dismissing this action without  
11 prejudice.

12 The Clerk further shall send petitioner two copies of an application to proceed *in forma*  
13 *pauperis* for an incarcerated person, two copies of a Section 2254 petition form, and one copy of the  
14 instructions for each form.

15 DATED this 4th day of May, 2010.

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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE